

**Introduced by Senator Leno
(Principal coauthor: Senator Steinberg)**

February 22, 2013

An act to amend Sections 4900, 4901, 4902, and 4903 of, and to add Section 1485.5 to, the Penal Code, relating to wrongful convictions.

LEGISLATIVE COUNSEL'S DIGEST

SB 618, as introduced, Leno. Wrongful convictions.

Existing law provides that any person who, having been convicted of any crime against the state amounting to a felony and imprisoned in the state prison for that conviction, is granted a pardon by the Governor for specified reasons, and having served the term or any part thereof for which he or she was imprisoned, may present a claim against the state to the California Victim Compensation and Government Claims Board for the pecuniary injury sustained by him or her through the erroneous conviction and imprisonment, as specified.

This bill would extend those provisions to a person who was incarcerated in county jail for a felony conviction. The bill would provide that if the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained, or when the court vacates a judgment for a person on the basis of newly discovered evidence concerning a person who is no longer unlawfully imprisoned or restrained, and if the court finds that the evidence on the petition points unerringly to innocence, the court's finding would be binding on the California Victim Compensation and Government Claims Board. The bill would provide that, upon application by the petitioner, the California Victim Compensation and Government Claims Board would, without a hearing, be required to recommend to the Legislature that an appropriation be made, and the claim be paid, as specified.

The bill would also provide that when the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained, or when the court vacates a judgment in a criminal matter against a person, the California Victim Compensation and Government Claims Board, in making its determination as to any claim submitted by that person, would be required to incorporate and be consistent with the factual findings, including credibility determinations, of the court granting the writ or reversing the conviction, and that those factual findings, including credibility determinations, would be binding upon the board.

Existing law requires a claim for wrongful imprisonment be presented by the claimant to the California Victim Compensation and Government Claims Board within a period of 2 years after judgment of acquittal or discharge given, or after pardon granted, or after release from imprisonment in order to be considered by the board.

This bill would revise those provisions to extend the time period to be 2 years from release from custody. The bill would define custody for those purposes as release from imprisonment from state prison or from incarceration in county jail, where there is no subsequent parole jurisdiction or postrelease jurisdiction exercised by the Department of Corrections and Rehabilitation or community corrections program, respectively, or where there is a parole period or postrelease period subject to jurisdiction of a community corrections program, when that period ends.

Existing law requires the California Victim Compensation and Government Claims Board to, upon presentation of a claim, fix a time and place for the hearing of the claim, and to mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the time fixed for the hearing.

This bill would require the board to determine within 30 days of receiving a claim if a hearing is not required, as specified, and in the event that a hearing is necessary, would require the board to order the Attorney General to respond to the claim within 60 days of the date of the order, or to request an extension of time, upon a showing of good cause, to file a response.

Existing law provides that at the hearing set by the board, the claimant is required to prove, among other things, the fact that he or she did not, by any act or omission on his or her part, intentionally contribute to the bringing about of his or her arrest or conviction for the crime with which he or she was charged. Existing law also provides that when determining

whether the claimant intentionally contributed to the bringing about of his or her arrest or conviction, the factfinder shall not consider statements obtained from an involuntary false confession or involuntary plea, and that the claimant bears the burden of proving by a preponderance of the evidence that the statements were obtained from an involuntary false confession or involuntary plea.

This bill would delete those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1485.5 is added to the Penal Code, to
2 read:

3 1485.5. (a) When the court grants a writ of habeas corpus
4 concerning a person who is unlawfully imprisoned or restrained,
5 or when the court vacates a judgment in a criminal matter against
6 a person, the California Victim Compensation and Government
7 Claims Board, in making its determination as to any claim
8 submitted by that person, shall incorporate and be consistent with
9 the factual findings, including credibility determinations, of the
10 court granting the writ or reversing the conviction, and those factual
11 findings, including credibility determinations, shall be binding
12 upon the board. In the event that the reversal of a conviction was
13 uncontested by the prosecution, the factual allegations of the
14 petition for writ of habeas corpus shall be deemed true allegations,
15 and the findings and determinations of the board shall incorporate
16 and be consistent with the allegations, and those uncontested
17 allegations shall be binding upon the board.

18 (b) If the claimant has secured a declaration of factual innocence
19 from the court pursuant to Section 851.8 or 851.86, the finding
20 shall be certain grounds for payment of compensation for a claim
21 made pursuant to Section 4900. Upon application by the petitioner,
22 the California Victim Compensation and Government Claims
23 Board shall, without a hearing, recommend to the Legislature that
24 an appropriation be made and the claim paid pursuant to Section
25 4904.

26 SEC. 2. Section 4900 of the Penal Code is amended to read:

27 4900. (a) Any person who, having been convicted of any
28 crime against the state amounting to a felony and imprisoned in

1 the state prison or incarcerated in county jail pursuant to
2 subdivision (h) of Section 1170 for that conviction, is granted a
3 pardon by the Governor for the reason that the crime with which
4 he or she was charged was either not committed at all or, if
5 committed, was not committed by him or her, or who, being
6 innocent of the crime with which he or she was charged for either
7 of the foregoing reasons, shall have served the term or any part
8 thereof for which he or she was imprisoned in state prison or
9 incarcerated in county jail, may, under the conditions provided
10 under this chapter, present a claim against the state to the California
11 Victim Compensation and Government Claims Board for the
12 pecuniary injury sustained by him or her through the erroneous
13 conviction and imprisonment or incarceration.

14 (b) If the court grants a writ of habeas corpus concerning a
15 person who is unlawfully imprisoned or restrained, or when,
16 pursuant to Section 1473.6, the court vacates a judgment for a
17 person on the basis of newly discovered evidence concerning a
18 person who is no longer unlawfully imprisoned or restrained, and
19 if the court finds that the evidence on the petition points unerringly
20 to innocence, that finding shall be binding on the California Victim
21 Compensation and Government Claims Board for a claim
22 presented pursuant to subdivision (a), and upon application by
23 the petitioner, the California Victim Compensation and
24 Government Claims Board shall, without a hearing, recommend
25 to the Legislature that an appropriation be made and the claim
26 paid pursuant to Section 4904.

27 SEC. 3. Section 4901 of the Penal Code is amended to read:

28 4901. (a) A claim under Section 4900, accompanied by a
29 statement of the facts constituting the claim, verified in the manner
30 provided for the verification of complaints in civil actions, ~~must~~
31 is required to be presented by the claimant to the California Victim
32 Compensation and Government Claims Board within a period of
33 two years after judgment of acquittal or discharge given, or after
34 pardon granted, or after release from imprisonment custody, and
35 no claim not so presented shall be considered by the California
36 Victim Compensation and Government Claims Board.

37 (b) For purposes of subdivision (a), “release from custody”
38 means release from imprisonment from state prison or from
39 incarceration in county jail when there is no subsequent parole
40 jurisdiction exercised by the Department of Correction and

1 *Rehabilitation or post-release jurisdiction under a community*
2 *corrections program, or when there is a parole period or*
3 *postrelease period subject to jurisdiction of a community*
4 *corrections program, when that period ends.*

5 SEC. 4. Section 4902 of the Penal Code is amended to read:

6 4902. ~~Upon presentation of a claim under Section 4900, the~~
7 *The California Victim Compensation and Government Claims*
8 *Board shall determine within 30 days of the presentation of a claim*
9 *pursuant to Section 4900 if a hearing is not necessary pursuant*
10 *to subdivision (b) of Section 4900. In the event that a hearing is*
11 *necessary, the board shall order the Attorney General to respond*
12 *to the claim within 60 days of the date of the order, or to request*
13 *an extension of time, upon a showing of good cause, to file a*
14 *response. Upon receipt of a response from the Attorney General,*
15 *the board shall fix a time and place for the hearing of the claim,*
16 *and shall mail notice thereof to the claimant and to the Attorney*
17 *General at least 15 days prior to the time fixed for the hearing. The*
18 *board shall use reasonable diligence in setting the date for the*
19 *hearing and shall attempt to set the date for the hearing at the*
20 *earliest date convenient for the parties and the board.*

21 SEC. 5. Section 4903 of the Penal Code is amended to read:

22 4903. ~~On such~~ *At the hearing the claimant shall introduce*
23 *evidence in support of the claim, and the Attorney General may*
24 *introduce evidence in opposition thereto. The claimant must shall*
25 *prove the facts set forth in the statement constituting the claim,*
26 *including the fact that the crime with which he or she was charged*
27 *was either not committed at all, or, if committed, was not*
28 *committed by him or her, the fact that he or she did not, by any*
29 *act or omission on his or her part, intentionally contribute to the*
30 *bringing about of his or her arrest or conviction for the crime with*
31 *which he or she was charged, and the pecuniary injury sustained*
32 *by him or her through his or her erroneous conviction and*
33 *imprisonment. For purposes of this chapter, when determining*
34 *whether the claimant intentionally contributed to the bringing about*
35 *of his or her arrest or conviction, the factfinder shall not consider*
36 *statements obtained from an involuntary false confession or*
37 *involuntary plea. The claimant shall bear the burden of proving*
38 *by a preponderance of the evidence that the statements were*
39 *obtained from an involuntary false confession or involuntary plea.*
40 *The Attorney General and the factfinder shall incorporate the*

- 1 *factual findings and determinations, including credibility*
- 2 *determinations, of the court reversing the conviction, in the manner*
- 3 *described in Section 1485.5.*

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